

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

October 14, 2004

P. Sartorius called the meeting to order at 4:03 p.m., and roll was taken.

MEMBERS PRESENT: T. Harryman, J. Aslakson, B. Mazade, S. Warmington, P. Sartorius, T. Johnson, T. Michalski, L. Spataro

MEMBERS ABSENT: B. Smith, excused.

STAFF PRESENT: J. Kinney, M. Cameron, L. Anguilm, H. Griffith

OTHERS PRESENT: G. Hodge, Hodge Construction Services; S. Parker, 2116 Harrison; D. Frye, 2156 Harrison; L. Parker, 1387 Montgomery; J. Parker, 2104 Harrison; M. Vanlente, 2126 Lakeshore; E. Hieftje, 1960 Cutler; B. Parker, 2116 Harrison; D. Wadsworth, 2125 Lakeshore; D. Medendorp, 3172 MacArthur; J. Booker, Booker Cosmetology; L. Follett, 2078 Sisson.

APPROVAL OF MINUTES

A motion to approve the minutes of the regular meeting of September 16, 2004 was made by S. Warmington, supported by B. Mazade and unanimously approved.

T. Michalski arrived at 4:04 p.m.

PUBLIC HEARINGS

Hearing; Case 2004-34: Request to rezone the properties located at 2111, 2123 and 2137 McCracken Street and also 2117 and 2125 Lakeshore Drive from R-1 Single Family Residential to RM-1 Low Density Multiple-Family Residential district, by Dave Medendorp (Lakeside MG, LLC). J. Kinney presented the staff report. The subject property is located at the southwest corner of Lakeshore Drive and McCracken Street. The three parcels along McCracken Street are remnants of a former railroad right-of-way and the two along Lakeshore Avenue are platted lots. The entire project site is zoned R-1, as are all properties on the block. Across Lakeshore Avenue, zoning of properties within the notification area included R-1 and B-4. Across McCracken Street, the properties facing Lakeshore are zoned RM-1 and those facing Harrison Avenue are zoned R-1. Zoning of properties to the south, across Harrison, is R-1. The neighborhood is predominantly single family residential other than along Lakeshore Avenue, where there is a mix of single and multi family uses commercial uses and vacant land. The Future Land Use Map shows the subject property to be "Single & Two-Family Residential." It is adjacent to the "Lakeside Pedestrian Scale Mixed-Use Area" across Lakeshore Drive, which promotes "pedestrian-friendly, mixed-use development and redevelopment." The Master Land

Use Plan states: ♦ It is the goal of the Master Plan to retain the McGraft Park Residential Sub-Area as single family in orientation. As such, the Master Plan supports ongoing efforts towards the rehabilitation of mature housing stock for continuing single family use and, where feasible, the construction of new single family detached homes. Moreover, those features of the sub-area considered highly beneficial to the area's residential character, aesthetic quality and life style should be fully protected and, where necessary, enhanced. These include McGraft Park, Seyferth Playfield, and tributaries of Ruddiman Lagoon. ♦ While fostering the above goal, it is acknowledged that a limited range of commercial and office activities are appropriate to select segments of Lakeshore Drive and Sherman Boulevard. Typically, non-residential uses should be oriented to the needs of the local populace. Such development should be highly controlled pursuant to type, location, and design in order to prevent negative impacts of the sub-area's residential focus. The Master Plan recommends for this sub-area: ♦ Maintain the character of the sub-area as single family residential. Limited multiple-family may be permitted provided: o Residential density (units per acre) does not exceed underlying single family standards by more than 50%; o Sufficient onsite parking exists to accommodate all units; o The character of the multiple family complex (building and site) must be consistent with that of surrounding residential development; o All units should have on-site access to at least (1) stall of an enclosed garage; and o All projects should be subject to site plan review by the Planning Commission. ♦ Implement zoning (site plan) standards requiring adequate buffer protection between the commercial uses along Lakeshore Drive and Sherman Boulevard and adjacent residential development. ♦ Commercial development along Lakeshore Drive should be restricted to the B-2 zone district classification. While it is recognized that Lakeshore Drive serves a rather high amount of transient traffic, many of the uses permitted within the present B-4 areas (e.g., major automobile repair, storage of wrecked automobiles, storage of goods, parts assembly, vehicular sales, flea markets, etc.) are not conducive to the planned character of the area. Though the subject property is not located within it, it is adjacent to the Lakeside area. The City of Muskegon Waterfront Redevelopment Sub-Plan 1999 recognizes the residential character of the Lakeside area and recommends mostly residential with some mixed-use commercial/office and residential development that utilizes and respects local vernacular styles for the design of new buildings and preserves views of the lake. The RM-1 district permits multiple family dwellings, up to 16 dwelling units per acre; current R-1 zoning permits single family detached dwellings, up to seven (7) dwelling units per acre. The PUD option allows for mixed land uses that are compatible with each other. There were no concerns or comments expressed by the Fire, Police or Public Works Departments. Staff received a public comment from Serge Seiferlein of the Auto Body Clinic on Lakeshore Drive, near McCracken, who is opposed to the project. The commission members were provided with a copy of a petition that had been circulated in opposition of the request. Staff also received 2 e-mails (which were supplied to the commission members). The first was from Mike Gawron of 2122 Harrison in opposition of the request. The second was from Mark Anderson of 2140 McCracken stating that he was also in opposition of the request. Staff also received a voice mail from Doug Frye who resides on Harrison and he is in opposition of the request.

The commission members were provided with the zoning language for R-1 and RM-1 zoning districts. The intent of the RM-1 zone district is to provide sites for multiple family dwellings that will generally serve as zones of transition between the nonresidential districts and lower density one and two family residential districts. Some of the primary differences between the R-1 and RM-1 zone districts are: principal uses permitted in the RM-1 zone are more intensive

than those in the R-1 zone; greater allowable density; and greater flexibility with the PUD option in the RM-1 zone. Based upon the goals and recommendations of the Master Plan, however, the requested RM-1 zone is a more intense zone district than expected for the area, though there is previously zoned RM-1 property directly across McCracken Street. Further, the Master Plan recommendation that the density not exceed 50% of the allowable R-1 density is not satisfied by the RM-1 zone. Recommended density should not exceed 10.5 dwelling units per buildable acre; RM-1 zoning permits 16. By comparison, the RT Two Family Residential District's Principal Uses Permitted are comparable to the R-1 zone and it allows 10 dwelling units per buildable acre, while the PUD option still allows mixed uses. Though staff finds the RT zone more appropriate for the site per the 1997 Master Plan and the 1999 Waterfront Redevelopment Sub-Plan, development in the area has not necessarily mirrored the expectations at the times when those plans were adopted. Based upon the analysis, staff recommended denial of the request to rezone the subject property from R-1 to RM-1 because the request does not conform to the goals and recommendations of the 1997 Master Plan, finding that the RT zone is more appropriate. Should the Planning Commission find that the goals and recommendations of the current plans are not reflective of current conditions and expected trends, and choose to recommend the City Commission rezone the property, appropriate changes in the Master Plan should be made at or before the next major Master Plan update.

P. Sartorius asked if the RT zoning district would allow for a PUD. J. Kinney stated a PUD is allowed in all the zoning districts except R-1. G. Hodge stated that he had attended a neighborhood association meeting and shared the plans with them. There would be retail space and residential condos. The 1999 Waterfront/Lakefront plan recommends retail/office/residential in this area. They are willing to work with Planning and Engineering staff with any outstanding issues for the site. The properties across the street from this property are zoned RM-1. S. Parker stated that the area east of McCracken doesn't need anymore retail stores. Also, one of the buildings was proposed to be built under a power line, which can't be done and it would be too expensive to move the power line (if it can be moved). He was opposed to the request. D. Frye stated that McCracken has historically been the dividing line for commercial and residential. He felt that it should remain this way and is opposed to the request. He stated that no one was in favor this development at the neighborhood association meeting. L. Parker felt that the plans to develop the site weren't complete or set. The applicant has stated that if the condos don't work, then they will go with rentals. There were enough vacant commercial properties in the area already. She would like this property to remain residential. She was opposed to the request. J. Parker stated that she is also opposed to the request. This is a nice residential neighborhood and she would like it to stay that way. She also felt that there wasn't enough room on the property for 5 buildings with 40 parking spaces. M. Vanlente stated that there is a lot of traffic along Lakeshore Drive, especially to and from the papermill. She would like to see single family homes there. She felt that anymore retail spaces would undermine the already struggling retail businesses in the area. E. Hieftje stated that Lakeshore and McCracken are already busy streets. The proposed development would put more pressure and congestion on the area. She couldn't understand anyone wanting to own a condo located above a retail business. She would like to see single family homes on the site. B. Parker stated that she would also like it to remain residential. She had circulated the petition that the commission members were provided with. The petition was in opposition of the request. There are a lot of children in the area. They do play in the street (side street off McCracken) and she is concerned that they may get hurt if the traffic volume were to increase.

She would also like to see a bike trail going thru the area. D. Wadsworth stated that she lives in the home on Lakeshore Drive and is located on property included in this proposed development. She is concerned that something may happen to the home. She gave a history of people who had lived in the home. She felt it would be a shame to convert the home into a commercial use. Any value to the home would be lost.

G. Hodge stated that the condos were to be sold. The lower level would be retail, but the plumbing and everything would be set up to easily convert into a condo if it weren't rented for a retail use. The design wouldn't be for just one use. The house on Lakeshore Drive will remain. They had no intention of tearing it down. The driveway would be moved to the other side of the home. They will work with Planning and Engineering departments to make sure everything is on the site plan. An easement on the property has been granted to the City for the bike trail. D. Medendorp stated that he would like to do a development that people would like. The condos would be about one-half the price of the units at Balcom's Cove. E. Hieftje stated that Lakeside was promised a bike trail by the City before D. Medendorp purchased the properties to build homes on.

A motion to close the public hearing was made by B. Mazade, supported by L. Spataro and unanimously approved.

L. Spataro asked if the easement for the bike trail could be confirmed. B. Mazade stated that the site plan that had been supplied to them shows the easement. L. Spataro asked if there would be any exits or entrances to the site on Harrison. J. Kinney stated that there weren't any proposed, but Engineering would like it looked at. B. Mazade had some concerns with how far commercial uses should be allowed on the property. He was also concerned with the density. T. Johnson stated that this was a busy corner. He asked if this was considered in staff's decision for their recommendation. J. Kinney stated that it wasn't. He was unaware of the intensity of the traffic. B. Mazade stated that there has been a traffic study done and the traffic count came back with 12,000 to 13,000 on Lakeshore Drive. J. Aslakson went over the criteria that the commission members were to go by for approval. He stated that he had been on the commission when a rezoning request had been made 4 or 5 years ago and he didn't believe anything had changed since then. This would set a precedent. McCracken is the dividing line between commercial and residential uses. He felt that approval of this would adversely affect the surrounding properties. He was concerned about the promises that the existing home that is included in this rezoning request, could be changed later and the home demolished. T. Harryman stated that he would agree with Ms. Wadsworth. There was no compelling reason to change the zoning at this time. S. Warmington stated that there are still empty commercial spaces along Lakeshore Dr. The commission represents the community. He stated that he would consider RT zoning, but not the RM-1. L. Spataro stated that he wasn't adamantly opposed to having a mixed use for at least part of the properties. He felt if the property was going to sell as single family, it would have already. He felt that the property on Lakeshore Drive could possibly be used for this type of development, but felt that the rear properties along McCracken should be single family. He stated that it would be unrealistic to think that there would be any single family homes on the corner of McCracken and Lakeshore Dr. J. Aslakson agreed that the front part of the property could be used for some kind of retail use. He would need more evidence that the property couldn't be used for single family. T. Michalski stated

that he could also see the property being rezoned for RT, but he doesn't think any single-family homes should be located on the corner.

A motion that the request to rezone the properties located at 2111, 2123 and 2137 McCracken Street and 2117 and 2125 Lakeshore Drive, from R-1 Single Family Residential to RM-1 Low Density Multiple-Family Residential district, as described in the public notice, be recommended for denial to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of lack of compliance with the intent of the City Master Land Use Plan and zoning district intent, with discussion continuing.

T. Johnson felt that the proposal was too intense for the area. S. Warmington suggested that the applicant look at using the front portion of the property only. G. Hodge requested that this be tabled so they may work with the Planning Department regarding the issues that were brought up at the meeting. P. Sartorius wasn't sure if this could be done since this would be a recommendation to the City Commission. T. Johnson stated that it was possible to table the request if the applicant wanted to reconsider the rezoning request. D. Medendorp stated that they would. P. Sartorius stated that another rezoning request would also require re-notification of the adjacent property owners. He stated that tabling this request wouldn't make a difference. S. Warmington stated that the applicant could withdrawal their request if they wanted to do it that way instead of tabling it. D. Medendorp asked if they could take two parcels off the request. J. Kinney stated that it would still need to be re-noticed. The adjacent property owners were notified of one thing and it can't be changed for something else without the proper notification. T. Johnson felt that it couldn't be done. It would be cleaner to simply withdrawal the request and reapply. G. Hodge and D. Medendorp asked to withdraw the request.

A motion to withdrawal the motion to deny was made by B. Mazade, supported by L. Spataro and unanimously approved.

Hearing; Case 2004-35: Request for Preliminary Planned Unit Development approval of a mixed-use residential and commercial development for the properties located at 2111, 2123 and 2137 McCracken St. and also 2117 and 2125 Lakeshore Dr. by Dave Medendorp (Lakeside MG, LLC). D. Medendorp asked that this request be tabled.

A motion to table the request for a preliminary PUD, was made by L. Spataro, supported by J. Aslakson and unanimously approved.

T. Harryman left at 5:16 p.m.

A motion that the PUD request would be re-noticed with the rezoning request was made by B. Mazade, supported by T. Johnson and unanimously approved.

Hearing; Case 2004-38: Request for a special land use permit to allow, per section 701(1) of the City Zoning Ordinance, a professional office and clinic of a massage therapist in an RM-1, Low Density Multiple Family Residential District at 2074 Mann Street, by Joe Booker. L. Anguilm presented the staff report. The subject property contains a vacant single-family residence (with a previously existing nonconforming unpaved parking lot that may have been recently expanded) that the applicant wishes to convert into an office and clinic for a massage therapist.

The site is located between Lakeshore Drive and Harrison Avenue on Mann Street. The properties immediately east, south and west of the property are also zoned RM-1. The properties to the north, along Lakeshore, are zoned B-2. There are a variety of commercial uses along Lakeshore, including a bar & grill, daycare, beauty school and general retail. The businesses along the south side of Lakeshore, on either side of Mann, have parking areas developed opposite the alley of them. One parking area is located immediately north of the subject property, with a play area for the daycare directly adjacent to the rear yard. The other parking area is located across Mann Street, as seen in the photo, and is owned by the applicant. Immediately to the south is a moderately wooded vacant lot (the south half of the original 66' x 124' lot), that is steeply inclined towards Harrison Ave. There are single family residences found in either direction along Harrison Ave. Commission members were provided with the zoning language for SUP under the zoning district language. The applicant is seeking special land use permit approval to allow a massage therapist business to operate on the premise. Based upon the common definition, staff feels the use is appropriately recognized as a professional office and clinic as recognized by State of Michigan licensing requirements for such businesses. As such, staff believes the use to be consistent with the nature and condition of neighboring uses and structures, both commercial and residential.

Definition of: massage therapist

Function: noun

Definition: a person trained in manipulation of the soft tissues of the body by rubbing, stroking, kneading, etc. for therapeutic or healing purposes

Source: *Webster's New Millennium™ Dictionary of English*, © 2003 Lexico Publishing Group, LLC

The reuse of the existing structure for such a business, through a special land use permit, may provide an extended life for a building that can serve as a transition between the more intense commercial uses along Lakeshore and the residential uses along Harrison. The 1999 City of Muskegon Waterfront Redevelopment Sub-Plan recognizes the residential character of the Lakeside area and recommends mostly residential with some mixed-use commercial/office and residential development that utilizes and respects local vernacular styles for the design of new buildings and preserves views of the lake. The site plan, as submitted, has generated the following comments. The applicant must provide: a) Proof of ownership or option interest, or permission from the owner to engage in site plan approval. b) Project description (narrative to go along with the site plan). c) Parking and loading areas in all districts shall be paved, striped (minimum dimensions of 8' x 18'), defined by curbing or curb stops, and be screened from adjacent residential property. A floor plan detailing the uses within all portions of the building is required to determine the required number of parking spaces. Any parking provided off site must be within 300' and include an irrevocable agreement. d) Vicinity map. e) Parcel number. f) Total site area. g) Setbacks, dimensions and height of existing and proposed structures (including parking area). h) Existing land use of abutting properties. i) Location and size of existing and proposed public utilities and respective easements. j) Location of easements and existing public streets, in and abutting the site, including pavement width and right-of-way lines. k) Location and dimensions of existing and proposed driveways and parking areas for customers, employees and commercial vehicles. Site circulation patterns shall also be included. l) Location of snow storage areas or means for disposing of excess snow. m) A landscape plan showing required planting and buffering features that comply with this ordinance. n) Location,

type, height and design of all outdoor lighting to be used on the site. o) Location and specifications for all solid waste disposal facilities, including recycling facilities (if any). p) Location and design of all signs and advertising features, including diagram of height and size of said signs. q) Location of fire lanes, fire lock box, hydrants, standpipes and security lighting. Due to this being a change in use, they would be required to have a housing inspector do an inspection prior to any occupancy. Though staff recognizes the challenges in the reuse of properties such as this, the onsite parking area does not meet the standards of the parking and landscaping ordinances. The parking area appears to be able to accommodate three (3) parking spaces. Per ordinance requirements, the parking area must be paved, striped and curbed, screened (minimum four (4) feet in height), and, at minimum, an area on either side of the drive shall be returned to lawn or landscaping at a depth of eight (8) feet from the property line. This will provide some additional separation between the sidewalk and parking area, while leaving adequate maneuvering room for vehicles backing out of the parking spaces. The applicant must contact the Inspections Department prior to any activity on site to determine building code requirements for the proposed use at the subject property. Any alterations, remodeling or "change of use" will require sealed architectural blueprints be submitted that reflect the building will meet current code requirements before any permits or certificate of occupancy can be issued. Other departments have not had a chance to review the site plan at the time of preparing this report. As a result there likely will be additional requirements from them. Staff recommends approval of the request with conditions. The request meets the intent of Section 701 of the Zoning Ordinance and conforms to the 1999 City of Muskegon Waterfront Redevelopment Sub-Plan.

B. Mazade asked about the parking situation for the location. L. Anguilm explained that the owner of this home also owned the business across the street and would be allowing them to use that parking lot, also. There are also 3 parking spaces on the property. L. Spataro was trying to figure out where the property line was. It was hard to tell due to the slope of the neighboring property where it was located. J. Kinney stated that the property line is located next to the parking area. J. Aslakson had concerns with intensifying the use of a residential structure on a lot that can't be rebuilt on due to the size of the lot. He was also concerned with the staff shortage; there was a long list of items proposed as conditions of the approval. J. Booker stated that he owns the home. He isn't sure how it would be used as a home due to the parking lots that are located all around it. The home was built with the alley running along side it. L. Follett stated that she was located in the old pharmacy building on Lakeshore Dr. She needed a bigger space. She has evening clients and at her old location, the bar music got quite loud in the evenings. Mr. Booker did a nice job of fixing the building up. S. Warmington stated that he didn't see a problem with the SUP. He asked if the building would need to be ADA compliant, if they approve the request. J. Kinney stated that the Inspections department would require that the building be up to the 2003 building code for a Class B occupancy and it would need to be ADA compliant. E. Hieftje stated that it is a beautiful home now that Mr. Booker had purchased it and cleaned it up. She is in favor of the request.

A motion to close the public hearing was made by L. Spataro, supported by T. Johnson and unanimously approved.

B. Mazade stated that he still had concerns regarding the parking. He knows that parking is an issue in the Lakeside area. J. Booker stated that if he needed to write up a parking agreement,

he would. B. Mazade stated that he had some concerns that there would eventually be joint parking agreements on top of joint parking agreements creating a serious parking deficit. J. Aslakson stated that if staff isn't uncomfortable with the list of conditions, then he wasn't either. L. Spataro felt this would be a reasonable use. There were a lot of parking areas around the site.

A motion that the special use permit and associated site plan to allow the professional office and clinic of a massage therapist at 2074 Mann Street by Joe Booker be approved, based on compliance with the City's Master Land Use Plan and conditions set forth in Section 2332 of the City of Muskegon Zoning Ordinance based on the following conditions: 1) The applicant must satisfy the requirements addressed in items 7 - 10 of the staff report within one year of the date of the public hearing and prior to applying for a building permit. 2) The special land use permit shall become null and void within one year of the public hearing if the use has not been established or condition #1 has not been met, was made by L. Spataro, supported by J. Aslakson and unanimously approved.

OTHER

Goal Setting – P. Sartorius suggested looking at the Lakeshore/Harrison area during their goal setting session due to the area being in an RM-1 zoning district.

There being no further business, the meeting adjourned at 5:43 p.m.

hmg
10/14/04